
Frequently Asked Questions: Penalty & Interest Reprieve Program

What is the Penalty and Interest Reprieve Program?

Assembly Bill 2065 recently added Revenue and Taxation Code section 7093.8, which allows the Board of Equalization, under certain circumstances, to cancel any penalty and interest that has accrued to any unpaid sales or use tax liability period provided the tax for the liability period is paid in full. The program begins October 1, 2002. To participate, the Board must notify a person by June 30, 2003, that they are eligible.

Who may participate in the program?

The program is available to all persons (individuals, partnerships, limited liability companies, corporations, nonprofit organizations, etc.) liable for sales and use tax who are otherwise eligible.

What does it take to be eligible for relief of the penalty and interest under section 7093.8?

To be eligible, a person must have an inactive account with sales and use tax liability period(s) final as of October 1, 2002. The Board of Equalization must also determine that it is in the best interest of the state to include the liability period(s) in the program.

Are liability periods that include fraud penalty eligible?

If otherwise eligible, liability periods that include fraud penalty may be included in the process.

Is this an amnesty program?

No. It is not sufficient to simply report and pay the tax that is due. The Board of Equalization must determine that it is in the best interest of the State to include the liability in the program.

What's the difference between this and an Offer in Compromise (OIC)?

The primary difference is that 100% of a tax liability period must be paid before penalty and interest is canceled. An OIC allows for resolution of your tax debt for less than what is due. Legal justification for accepting an OIC is based upon your ability to pay within a reasonable period of time.

When is the deadline to apply for the program?

Although you have until June 30, 2004 to pay, the Board of Equalization only has until June 30, 2003 to determine whether or not an applicant is eligible. To ensure timely processing, an applicant should apply by May 15, 2003.

For persons that want to participate, is there an application that must be submitted?

Yes.

How does a person obtain an application?

An application can be requested by calling 800-400-7115. It can be requested by mail from the State Board of Equalization, 450 N Street, MIC:95, Sacramento, CA 95814. It can also be downloaded from the Board of Equalization website at www.boe.ca.gov (Forms and Publications, Sales and Use Tax, Forms, BOE-1778-A).

Can a person make payments?

If it is determined that a liability period is eligible and payment in full can't be made right away, a person may make payments, however, the tax must be paid in full by June 30, 2004.

What forms of payment will be accepted?

Cash, check, money order, and cashier's check are all acceptable forms of payment.

Can a person pay by credit card or EFT?

No.

How long does a person have to pay the tax?

If payment of all the tax can't be made right away, payments may be made through June 30, 2004. Any payment made after June 30, 2004, will not be eligible.

If a person submits a tax payment by June 30, 2004, can they still get relief of the penalty and interest charges if they haven't received notification from the Board that they are eligible?

A person must be identified as eligible in order to participate in the program. Any payment received from a person who isn't eligible will be applied to their account in the normal course of business.

What happens if a person is making payments, something happens and they can't pay all the tax on a liability period by the end date of the program?

If a person has been making payments, but for some reason isn't able to pay all the tax for a liability period, penalty and interest will not be adjusted and no refund will be given for any payments received while the person was participating in the program. For individual liability periods for which all the tax was paid, penalty and interest will be canceled.

If a person owes multiple liabilities, some of which are only for penalty and interest, will these penalty and interest balances be canceled if all the tax on all other liabilities are paid?

No. Individual liability periods with only penalty and interest owing do not qualify for inclusion in the program.

If a person already paid the penalty and interest on a liability period, or any portion thereof, can the amounts paid be refunded?

No. Penalties and interest paid before the enactment of section 7093.8 are not subject to section 7093.8 relief.

How does a person satisfy penalty and interest liabilities that aren't eligible, yet remain due after the end of the program?

You may be able to get some relief by submitting an application for an Offer in Compromise. For more information about an Offer in Compromise, you may call 916-322-7931. You can also obtain information about an Offer in Compromise from the Board of Equalization website at www.boe.ca.gov (Offer in Compromise).

Will the Board of Equalization notify persons who may be eligible for relief of penalty and interest?

The Board of Equalization will issue notices to persons who may be eligible. Persons who believe they may be eligible, but do not receive a notice by March 1, 2003, should submit an application to the Board of Equalization. The Board of Equalization will review the application to determine whether or not the person is eligible.

What will happen if a person pays the tax by check and the check is later returned due to insufficient funds?

Unless certified replacement funds (cashier's check, money order, or cash) are received by June 30, 2004, applicable penalty and interest will remain due.

A tax lien is on file against a person for a tax debt. If the tax is paid in full, will the lien be released?

As to liability periods whose balances have been reduced to zero, the lien will no longer apply. However, if the lien also included liability periods for which there are remaining balances, the lien would not be released until those balances are resolved.

Will the Board of Equalization contact credit bureaus to remove liens?

Tax liens are of public record. A lien release is also part of the public record. Credit bureaus obtain information from the public record. The Board of Equalization does not contact credit bureaus. It would be up to you to contact the credit bureaus.

Can a person who is currently in bankruptcy participate in the program?

Bankruptcy does not necessarily prevent an eligible person from participating in the program. However, payments must be made in accordance with the bankruptcy laws. The bankruptcy laws may not allow some debtors to make payments to the Board of Equalization under this program.

Will the program be offered again?

There are no plans to offer the program again.

Who can a person contact if they have additional questions about the program?

A person can e-mail the Board of Equalization through the Board of Equalization website at www.boe.ca.gov or call 800-400-7115.
